

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JESUS YANEZ, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO.: 3:21-cv-0073
WALGREEN CO. §
Defendant. §
§

DEFENDANT'S NOTICE OF REMOVAL

Defendant Walgreen Co. files this Notice of Removal from state court in accordance with 28 U.S.C. §§ 1332, and 1441, and in support thereof, respectfully shows the following:

I. INTRODUCTION

1. Defendant Walgreen Co. removes this state-law action brought by its former employee, Plaintiff Jesus Yanez, based upon diversity jurisdiction. *See* 28 U.S.C. § 1441(a). Walgreen Co. and Yanez are citizens of different states, and Yanez seeks damages in excess of the \$75,000 threshold required for the exercise of diversity jurisdiction. Walgreen Co. also files this Notice of Removal within thirty days of service of Plaintiff's Original Petition as required by 28 U.S.C. § 1446(b).

II. FACTUAL BACKGROUND

2. On February 12, 2021, Plaintiff Jesus Yanez filed a lawsuit styled *Jesus Yanez v. Walgreens Co.*, in the County Court at Law No. 3, El Paso County, Texas. [See Ex. A, Pl.'s Orig. Pet.] In his lawsuit, Yanez asserts a single claim for age discrimination under Section 21.051 of the Texas Labor Code and seeks a variety of damages, including general damages,

special damages, punitive damages, attorneys' fees, and expert fees. [*Id.*, at ¶ 22.] Yanez expressly seeks "monetary relief over \$1,000,000." [*Id.*, at ¶ 18.]

3. Yanez served his lawsuit on Defendant Walgreen Co., on February 22, 2021, and Walgreen Co. filed its Answer in state court on March 12, 2021. [See Ex. B, Walgreen Co. Citation; Ex. C, Walgreen Co.'s Gen. Denial & Defs.] Walgreen Co. now files this Notice of Removal within thirty days of receiving service of process of Plaintiff's Original Petition as required by 28 U.S.C. § 1446(b). [See Ex. B, Walgreen Co. Citation.]

III. ARGUMENTS & AUTHORITIES

4. Under 28 U.S.C. § 1441, a defendant may remove to federal court "any civil action brought in a State court of which the district courts of the United States have original jurisdiction." In the present case, the Court possesses original jurisdiction based on diversity because "the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs and is between . . . citizens of different states." 28 U.S.C. § 1332(a).

5. Yanez is a resident of the State of Texas and has resided there at all times material to this lawsuit.

6. Walgreen Co. is incorporated in the State of Illinois and its principal place of business is in Deerfield, IL.

7. It is facially apparent from Yanez's Original Petition that the amount in controversy exceeds \$75,000. Yanez seeks a variety of damages, including general damages, special damages, punitive damages, attorneys' fees, and expert fees. [See Ex. A, Pl.'s Amend. Compl. at ¶ 22.] Indeed, Yanez expressly seeks "monetary relief over \$1,000,000." [*Id.* at ¶ 18.]

4. Venue is proper in the Western District of Texas, El Paso Division, under 28 U.S.C. §1446(a). The removed action is pending in Western District of Texas, El Paso

Division, and a substantial part of the events giving rise to Yanez's state law claim allegedly occurred there. [See generally Ex. A, Pl.'s Orig. Pet.]

5. Pursuant to 28 U.S.C. § 1446(a), Walgreen Co. attaches to this Notice of Removal true and correct copies of Yanez's Original Petition (Ex. A), the Citation issued to Walgreen Co. (Ex. B), Walgreen Co.'s General Denial and Defenses (Ex. C), true and correct copies of the state court's Docket Sheet (Ex. D), and the State Court Notice of Removal (Ex. E), which constitute all process, pleadings, and orders served to date or that will be served to date.

6. Pursuant to 28 U.S.C. § 1446(d), promptly after this Notice is filed with this Court, Walgreen Co. will serve written notice of its filing on Plaintiff. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice also will be filed with the clerk of the County Court at Law No. 3 of El Paso County, Texas.

IV. CONCLUSION & PRAYER

For the foregoing reasons, Defendant Walgreen Co. asks the United States Court for the Western District of Texas, El Paso Division, to assume jurisdiction over this action, as a whole, based upon diversity jurisdiction and supplemental jurisdiction. Walgreen Co. additionally prays for all other relief to which it may be entitled.

Respectfully submitted,

/s/ Shannon B. Schmoyer _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served *via Court's E-Filing system* to:

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ATTORNEYS FOR PLAINTIFF

on this 23rd day of March, 2021.

/s/ Shannon B. Schmoyer
Shannon B. Schmoyer